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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 REGINALD C. HOWARD,

12 Plaintiff,

13 vs.

14 GARY HILL, *et al.*,

15 Defendants.
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) 3: 03-cv-0493-HDM-RAM
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ORDER

19 Plaintiff, an inmate at High Desert State Prison, is proceeding *pro se* in this civil
20 rights action pursuant to 42 U.S.C. Section 1983. Pending before the court is plaintiff's motion for
21 relief from judgment filed May 6, 2009 (Docket #128). Defendants oppose the motion (Docket
22 #130).

23 The parties engaged in settlement negotiations in this case on November 14, 2007.
24 Exhibit A, Defendant's Opposition to Motion for Relief from Final Judgment (#129). This resulted
25 in an agreement which was placed on the record. Exhibit B, Defendant's Opposition to Motion for
26 Relief from Final Judgment (#129). On November 15, 2007, the day after the settlement conference,

1 plaintiff sent the court and defendant's counsel a letter stating that he had changed his mind and had
2 decided not to accept the settlement agreement after all. Exhibit C, Defendant's Opposition to
3 Motion for Relief from Final Judgment (#129).

4 On January 4, 2008, the Magistrate Judge upheld the Settlement Agreement from
5 November 14, 2007. Exhibit E, Defendant's Opposition to Motion for Relief from Final Judgment
6 (#129). In so doing, the court stated in part as follows:

7 THE COURT: We do have a settlement in this case, Mr. Howard. You have no reason, you
8 have no reason, other than the fact that you changed your mind, not to go through with this
9 settlement. The defendants have done everything they agreed to do, provided you with
10 everything they have agreed to provide you with, and it's pretty clear to me that you just
11 changed your mind that night after we recessed.

12 MR. HOWARD: Your Honor - -

13 THE COURT: And people aren't allowed to do that. You know, a deal is a deal. That's why
14 I put it on the record. That's why I put it on the record, because - - I put it on the record so
15 that you then cannot change your mind. Because there has to be some finality to these things.
16 If there wasn't, people would try to back out of settlement all the time.

17 MR. HOWARD: Okay. Your Honor, do I have the right to go to trial?

18 THE COURT: No. The case is settled. You settled the case.

19 *Id.*

20 On May 6, 2009, plaintiff filed the motion for relief from judgment now before the court
21 (Docket #128). In his motion, plaintiff argues that agreements were made at the settlement
22 conference which were not written into the settlement agreement. Plaintiff states that he seeks
23 enforcement of those promises. The court finds plaintiff's argument to be meritless. As the hearing
24 of January 4, 2009, the Magistrate Judge expressly found that defendants had complied with the
25 terms of the settlement. Exhibit F, Defendant's Opposition to Motion for Relief from Final
26 Judgment (#129). That finding remains the law of the case.

1 **IT IS THEREFORE ORDERED** that plaintiff's motion for relief from final
2 judgment is **DENIED** (Docket #128).

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4 DATED this 14th day of May, 2009.

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7 UNITED STATES DISTRICT JUDGE
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